Application No.: 10/724,736 Attorney Docket No. 0465-1106P
Art Unit 1746 Reply to September 21, 2006 office Action

Page 6

REMARKS

Applicants thank the Examiner for the very thorough consideration given the present

application.

Claims 1, 3, 4, 6 and 8-14 are now present in this application. Claims 1, 11 and 14 are

independent.

By this Amendment, claims 2, 5 and 7 are canceled, claims 1, 3, 4, 6 and 8-10 are

amended, and claims 11-14 are added. No new matter is involved.

Reconsideration of this application, as amended, is respectfully requested.

Priority Under 35 U.S.C. § 119

Applicants thank the Examiner for acknowledging Applicants' claim for foreign priority

under 35 U.S.C. § 119, and receipt of the certified priority document.

Information Disclosure Citation

Applicants thank the Examiner for considering the references supplied with the

Information Disclosure Statement filed July 27, 2005, and for providing Applicants with an

initialed copy of the PTO-1449 form filed therewith.

Attorney Docket No. 0465-1106P

Reply to September 21, 2006 office Action

Page 7

Drawings

Art Unit 1746

Application No.: 10/724,736

Applicants acknowledge with appreciation an indication by the Examiner by telephone,

on September 25, 2006, that the drawings have been accepted.

Rejection Under 35 U.S.C. § 102

Claims 1-3 and 5-10 stand rejected under 35 USC § 102(e) as being anticipated by U.S.

patent 6,886,371 to Arai et al. ("Arai"). This rejection is respectfully traversed.

During patent examination the PTO bears the initial burden of presenting a prima facie

case of unpatentability. In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir.

1992); In re Piasecki, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984). If the PTO

fails to meet this burden, then the Applicants are entitled to the patent.

Applicants respectfully submit that the PTO has failed to meet this burden.

A prior art reference anticipates the subject matter of a claim when that reference

discloses every feature of the claimed invention, either explicitly or inherently. In re Schreiber,

128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997) and Hazani v. Int'l Trade

Comm'n, 126 F.3d 1473, 1477, 44 USPQ2d 1358, 1361 (Fed Cir. 1997). While, of course, it is

possible that it is inherent in the operation of the prior art device that a particular element

operates as theorized by the Examiner, inherency may not be established by probabilities or

possibilities. In re Oelrich, 666 F.2d 578, 581, 212 USPQ 323, 326 (CCPA 1981) and In re

Rijckaert, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993).

Application No.: 10/724,736 Attorney Docket No. 0465-1106P

Art Unit 1746 Reply to September 21, 2006 office Action

Page 8

All words in a claim must be considered in judging the patentability of that claim against

the prior art. In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

Initially, Applicants note that this rejection is moot with respect to claims 2, 5 and 7, which

have been canceled.

Applicants respectfully submit that Arai does not disclose the invention as recited in

amended claim 1, which claims an apparatus that electrically charges recirculated wash water,

because the Arai does not appear to disclose electrically charging recirculated wash water, although

Arai does disclose initially charging tap water in Fig. 26. Arai's Fig. 26 embodiment concerns

electrolyzing only tap water (cols. 23 and 24, lines 36-48), not recirculated wash water. Applicants

do not find an explicit disclosure in Arai of electrically charging recirculated wash water, as

claimed.

Furthermore, Arai fundamentally differs from Applicants' claimed invention in that Arai

focuses on pre-washing clothes, including using a jet nozzle, rather than on just enhancing the

characteristics of recirculated wash water, as claimed.

Claims 6 and 8-10 depend from amended claim 1 and are not disclosed by Arai at least for

the reasons that amended claim 1 is not disclosed by Arai.

Accordingly, neither independent amended claim 1, nor dependent claims 6 and 8-10, are

anticipated by Arai.

Reconsideration and withdrawal of this rejection of claims 1-3 and 5-10 are respectfully

requested.

Application No.: 10/724,736 Attorney Docket No. 0465-1106P

Art Unit 1746 Reply to September 21, 2006 office Action

Page 9

Rejections under 35 U.S.C. §103

Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Arai as applied

in the rejection of claim 3, and further in view of U.S. Patent 5,570,596 to Imai et al. ("Imai"). This

rejection is respectfully traversed.

Because the rejection is based on 35 U.S.C. §103, what is in issue in such a rejection is

"the invention as a whole," not just a few features of the claimed invention. Under 35 U.S.C.

§103," [a] patent may not be obtained . . . if the differences between the subject matter sought to

be patented and the prior art are such that the subject matter as a whole would have been obvious

at the time the invention was made to a person having ordinary skill in the art to which said

subject matter pertains." The determination under section 103 is whether the claimed invention

as a whole would have been obvious to a person of ordinary skill in the art at the time the

invention was made. See In re O'Farrell, 853 F.2d 894, 902, 7 USPQ2d 1673, 1680 (Fed. Cir.

1988). In determining obviousness, the Examiner must explain what the differences between the

claimed invention and the prior art are and provide objective factual evidence to support a

conclusion that it would be obvious to one of ordinary skill in the art to achieve the claimed

invention, which includes those missing features.

In the second place, in rejecting claims under 35 U.S.C. §103, it is incumbent on the

Examiner to establish a factual basis to support the legal conclusion of obviousness. See In_re

Eine, 837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In so doing, the Examiner is

expected to make the factual determinations set forth in Graham v. John Deere Co., 383 U.S. 1,

17, 148 USPQ 459, 467 (1966), and to provide a reason why one of ordinary skill in the pertinent

Attorney Docket No. 0465-1106P

Reply to September 21, 2006 office Action

Page 10

Application No.: 10/724,736

Art Unit 1746

art would have been led to modify the prior art or to combine prior art references to arrive at the claimed invention. Such reason must stem from some teaching, suggestion or implication in the prior art as a whole or knowledge generally available to one having ordinary skill in the art. Uniroval Inc. v. F-Wiley Corp., 837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed. Cir. 1988), cert. denied, 488 U.S. 825 (1988); Ashland Oil, Inc. v. Delta Resins & Refractories, Inc., 776 F.2d 281, 293, 227 USPQ 657, 664 (Fed. Cir. 1985), cert. denied, 475 U.S. 1017 (1986); ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984). These showings by the Examiner are an essential part of complying with the burden of presenting a prima facie case of obviousness. Note, In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification. In re Fritch, 972 F.2d 1260, 1266, 23 USPQ2d 1780, 1783-84 (Fed. Cir. 1992). To establish prima facie obviousness of a claimed invention, all the claim limitations must be suggested or taught by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1970). All words in a claim must be considered in judging the patentability of that claim against the prior art. In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

A showing of a suggestion, teaching, or motivation to combine the prior art references is an "essential evidentiary component of an obviousness holding." C.R. Bard, Inc. v. M3 Sys. Inc., 157 F.3d 1340, 1352, 48 USPQ2d 1225, 1232 (Fed. Cir. 1998). This showing must be clear and particular, and broad conclusory statements about the teaching of multiple references, standing

Application No.: 10/724,736 Attorn

Art Unit 1746

Attorney Docket No. 0465-1106P Reply to September 21, 2006 office Action

Page 11

alone, are not "evidence." See In re Dembiczak, 175 F.3d 994 at 1000, 50 USPQ2d 1614 at 1617

(Fed. Cir. 1999).

Moreover, a factual inquiry whether to modify a reference must be based on objective

evidence of record, not merely conclusory statements of the Examiner. See In re Lee, 277 F.3d

1338, 1343, 61 USPQ2d 1430, 1433 (Fed. Cir. 2002).

The Office Action admits that Arai does not disclose using a source of DC power

converted from AC power and, in an attempt to remedy this deficiency, turns to Imai, which

discloses supplying DC power to a control circuit of an automatic washing machine by using a

step down transformer and converting AC to DC power.

Applicants respectfully submit that Arai fails to disclose or suggest the invention recited in

amended claim 1, from which claim 4 depends, regardless of the source of electrical power to its

electrodes, and that Imai is not applied to remedy the deficiencies of Arai, that are noted above

regarding Applicants' traversal of the rejection of claim 1.

Accordingly, even if one of ordinary skill in the art were properly motivated to modify Arai

to employ a DC power source using stepped down AC power, the modified version of Arai would

neither disclose or render obvious the invention recited in claim 4, for reasons discussed above.

Furthermore, because Arai does not disclose a power source for its electrodes 89a and 89b

and because Imai does not disclose that its DC power source is used to power electrolytic

electrodes, the Office Action fails to present objective factual evidence of proper motivation to

modify Arai to use the claimed AC to DC conversion apparatus to power Arai's electrolytic

electrodes 89a and 89b. Moreover, as neither applied reference suggests converting AC to DC to

Application No.: 10/724,736

Art Unit 1746

Attorney Docket No. 0465-1106P Reply to September 21, 2006 office Action

Page 12

power water ionizing electrodes, the motivation for modifying one of the two references to

include that feature must be based on speculation and/or impermissible hindsight.

Reconsideration and withdrawal of the rejection of claim 4 are respectfully requested.

Claims 11-14

Independent claim 11, dependent claims 12-13, and independent claim 14 have been added

for the Examiner's consideration. The patentable distinctness of independent claims 11 and 14 with

respect to Arai and Imai has been discussed above with respect to how similar claim 1 patentably

defines over the Arai and Imai references.

Applicants also submit that claims 12 and 13 depend from independent claim 1, and are

therefore allowable based on their dependence from claim 1, which is believed to be allowable, for

reasons discussed above.

Additional Cited References

Because the remaining reference cited by the Examiner has not been utilized to reject the

claims, but has merely been cited to show the state of the art, no comment need be made with

respect thereto.

Application No.: 10/724,736

Art Unit 1746

Attorney Docket No. 0465-1106P Reply to September 21, 2006 office Action

Page 13

Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or

rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently

outstanding rejections and that they be withdrawn. It is believed that a full and complete response

has been made to the outstanding Office Action, and as such, the present application is in condition

for allowance.

If the Examiner believes, for any reason, that personal communication will expedite

prosecution of this application, the Examiner is invited to telephone Robert J. Webster, Registration

No. 46,472, at (703) 205-8000, in the Washington, D.C. area.

Prompt and favorable consideration of this Amendment is respectfully requested.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies,

to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional

fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

Date: January 22, 2007

James T. Eller, Jr.

Reg. No.: 39,538

JTE/RJW:imh

P.O. Box 747

Falls Church, Virginia 22040-0747

Telephone:

(703)205-8000